

**ELDERLY INDIVIDUALS AND INDIVIDUALS WITH DISABILITIES PROGRAM
GUIDANCE AND APPLICATION INSTRUCTIONS. FTA C 9070.1F**

PURPOSE. This Circular is a reissuance of guidance on the administration of the transit assistance program for elderly individuals and individuals with disabilities under 49 U.S.C. 5310, and guidance for the preparation of grant applications. This revision incorporates provisions of the Safe Accountable, Flexible, Efficient Transportation Equity Act (SAFETEA-LU), and includes the most up-to-date available guidance for the program.

CANCELLATION. This circular cancels FTA Circular 9070.1E, "Elderly Individuals and Individuals with Disabilities Program Guidance and Application Instructions," dated October 1, 1998.

AUTHORIZING LEGISLATION. The Safe, Accountable, Flexible, Efficient Transportation Act, a Legacy for Users (SAFETEA-LU) (Pub. L. 109-059), enacted on August 10, 2005 provides \$286.4 billion in guaranteed funding for Federal surface transportation programs over six years through FY 2009, including \$52.6 billion for federal transit programs – a 46% increase over transit funding guaranteed in the previous authorization Transportation Equity Act for the 21st Century (TEA-21).

PROGRAM HISTORY. The Section 5310 program was established in 1975 as a discretionary capital assistance program. In cases where public transit was inadequate or inappropriate, the program awarded grants to private non-profit organizations to serve the transportation needs of elderly persons and persons with disabilities. FTA (then the Urban Mass Transportation Administration, UMTA) apportioned the funds among the States by formula for distribution to local agencies, a practice made a statutory requirement by the Intermodal Surface Transportation Efficiency Act (ISTEA). In the early years of the program, many of the subrecipient non-profit agencies used the vehicles primarily for transportation of their own clients. Funding for the Section 16(b)(2) program, as it was then known, ranged between \$20-35 million annually until the passage of ISTEA in 1992, when it increased to the \$50-60 million range. ISTEA also introduced the eligibility of public agencies under limited circumstances to facilitate and encourage the coordination of human service transportation. Increasingly, FTA guidance encouraged and required coordination of the program with other Federal human service transportation programs. In lieu of purchasing vehicles, acquisition of service in order to promote use of private sector providers and coordination with other human service agencies and public transit providers was made an eligible expense under ISTEA. Other provisions of ISTEA introduced the ability to transfer flexible funds to the program from certain highway programs and the flexibility to transfer funds from the Section 5310 program to the rural and urban formula programs.

SECTION 5310 STATUTORY AUTHORITY. 49 U.S.C. 5310 is titled "Formula grants for special needs of elderly individuals and individuals with disabilities." FTA refers to this formula program as the Section 5310 program.

The following amounts are available from the Mass Transit Account of the Highway Trust Fund to carry out the Section 5310 program: \$112,000,000 for fiscal year 2006, \$117,000,000 for fiscal year 2007, \$127,000,000 for fiscal year 2008, and \$133,500,000 for fiscal year 2009. 49

U.S.C. 5310(b)(1) directs FTA to apportion amounts appropriated to carry out Section 5310 to the States based on an administrative formula that considers the number of elderly individuals and individuals with disabilities in each State. These funds are subject to annual appropriations.⁴⁹ U.S.C. 5310(a)(1) authorizes FTA to make grants to States and local governmental authorities for public transportation capital projects planned, designed and carried out to meet the special needs of elderly individuals and individuals with disabilities. 49 U.S.C. 5310(a)(2) provides that a State may allocate the funds apportioned to it to:

- a. a private non-profit organization, if public transportation service provided by State and local governmental authorities under Section 5310(a)(1) is unavailable, insufficient, or inappropriate; or
- b. a governmental authority that:
 - (1) is approved by the State to coordinate services for elderly individuals and individuals with disabilities; or
 - (2) certifies that there are not any non-profit organizations readily available in the area to provide the special services.

The code assigned to the Section 5310 program in the Catalogue of Federal Domestic Assistance is 20.513.

2. **PROGRAM GOAL.** The goal of the Section 5310 program is to improve mobility for elderly individuals and individuals with disabilities throughout the country. Toward this goal, FTA provides financial assistance for transportation services planned, designed, and carried out to meet the special transportation needs of elderly individuals and individuals with disabilities in all areas - urbanized, small urban, and rural. The program requires coordination with other federally assisted programs and services in order to make the most efficient use of Federal resources.

RELATIONSHIP TO OTHER FTA PROGRAMS.

- a. **Section 5311, the Non-urbanized Area Formula Program.** The Section 5311 program makes Federal funds available to States to assist in the development, improvement and use of public transportation systems in rural and small urban areas. While the overall objectives of the Section 5311 and Section 5310 programs differ (that is, the objective of Section 5311 is to provide transportation to the general public in non-urbanized areas and the objective of Section 5310 is to serve elderly individuals and individuals with disabilities in both rural and urbanized areas), there are parallels which make it desirable for States to consider both resources and plan for their use in a complementary way.

With few exceptions, the two programs are administered by the same State agency. Many Section 5311 subrecipients are private non-profit organizations, and in some cases a single organization receives both Section 5310 and Section 5311 funding. In other cases, subrecipients of Section 5310 funds seek to participate in coordinated service arrangements which also include Section 5311 funded organizations. FTA encourages participation in such coordinated efforts as long as the coordinated services will continue to meet the purposes of both programs. FTA has made the guidelines for both programs as consistent as possible in order to simplify program administration. See Chapter V for requirements related to the local coordinated public transit-human service transportation plan for the Section 5310, JARC, and New Freedom programs. Section 5311 subrecipients should be active participants in the local coordinated planning process through which Section 5310 projects are developed. Under

Section 5311, the Rural Transit Assistance Program (RTAP) provides for technical assistance, training, and related support services in non-urbanized areas. Section 5310 providers may participate in RTAP sponsored activities, at the State's discretion, as long as the activities are primarily designed and delivered to benefit non-urbanized transit providers.

- b. Coordination Provisions, Sections 5310, JARC and New Freedom. SAFETEA-LU requires that projects funded from the Elderly Individuals and Individuals with Disabilities (Section 5310), Job Access and Reverse Commute (JARC), and New Freedom programs be derived from a locally developed coordinated public transit-human service transportation plan ("coordinated plan"). A coordinated plan should maximize the programs' collective coverage by minimizing duplication of services. Further, a coordinated plan should be developed through a process that includes representatives of public, private and non-profit transportation and human services providers, and participation by the public. A coordinated plan may incorporate activities offered under other programs sponsored by Federal, State, and local agencies to greatly strengthen its impact. FTA also encourages participation in coordinated service delivery as long as the coordinated services will continue to meet the purposes of all programs. FTA has made the guidelines for programs as consistent as possible to simplify program administration.
- c. Section 5307, the Urbanized Area Formula Assistance Program (Section 5307). Section 5307 provides funding for all urbanized areas. Funding may be used for capital assistance and planning. Funds may also be used for operating assistance. Section 5310 funds may be transferred to Section 5307, but must fund Section 5310 eligible projects. Guidance for Section 5307 is found in FTA C 9030.1c.
- d. Flexible Funds. Surface Transportation Program (STP) funds, among others, are a source of flexible funds for both highway and transit projects. At the State's discretion, these flexible funds may be used for transit capital projects (which under Section 5310 include acquiring transportation service under contract) that meet the special needs of elderly persons and persons with disabilities. Funds transferred to 5310 take on Section 5310 program requirements.

COORDINATION WITH OTHER FEDERAL PROGRAMS.

- e. The Federal Interagency Coordinating Council on Access and Mobility (CCAM). CCAM, comprised of 11 Federal departments and agencies, was established by an Executive Order on Human Service Transportation Coordination signed by President Bush on February 24, 2004. The members consist of the U.S. Departments of Transportation, Health and Human Services, Labor, Education, Agriculture, Housing and Urban Development, Interior, the Commission on Social Security, Veterans Affairs, the Attorney General and the National Council on Disabilities. CCAM coordinates 62 Federal programs providing transportation funding for older Americans, persons with disabilities and low-income populations that do not have access to or cannot use automobile transportation options. The Executive Order requires that CCAM members work together to provide the most appropriate, cost effective services within existing resources, and reduce duplication to make funds available for more services. CCAM seeks to simplify access to transportation services for persons with disabilities, persons with low incomes, and older adults. To implement the Executive Order, CCAM launched the United We Ride initiative

Meal Delivery for Homebound Individuals. Public transportation service providers receiving Section 5310(c) funds may coordinate and regularly provide meal delivery service for homebound individuals, if the delivery service does not conflict with providing public transportation service or reduce service to public transportation passengers.

TRANSFER OF FUNDS.

- a. Transfer to other FTA Programs. A State may transfer Section 5310 funds apportioned to it to an apportionment under Section 5311(c) or 5307, or both. The transfer is for administrative ease and allows States to reduce the number of FTA grants to administer. Transferred funds must be used for eligible Section 5310 projects. A State may make a transfer to Section 5307 only after coordinating with private non-profit providers of services under Section 5310. The period of availability for the transferred funds is not changed.
- b. Transfer of (FHWA) Flexible Funds. Flexible funds from the Federal Aid Highway program may be transferred to the Section 5310 program for use by the State. Unlike transfers between transit programs, under which funds retain their original purposes, flexible funds transferred to the Section 5310 program will be treated under the program requirements applicable to Section 5310. The funds are available for obligation by the State for two additional years after the year in which they are transferred.
- c. Notification of Transfers. The State must notify the FTA regional administrator of the State's intent to transfer funds to Section 5307 or Section 5311 for projects selected under Section 5310. The notification must indicate the fiscal year of the apportionment, the amount of funds transferred, the program to which they are being transferred, and the selected Section 5310 projects for which they will be used.

For transfers of flexible funds to Section 5310, the State must notify both FHWA and FTA and request FHWA to transfer the funds.

ELIGIBLE SUBRECIPIENTS. There are three categories of eligible subrecipients of Section 5310 funds:

- a. Private non-profit organizations. A non-profit organization is a corporation or association determined by the Secretary of the Treasury to be an organization described by 26 U.S.C. 501(c) which is exempt from taxation under 26 U.S.C. 501(a) or one which has been determined under State law to be non-profit and for which the designated State agency has received documentation certifying the status of the non-profit organization.
- b. Public bodies that certify to the chief executive officer of a State that no non-profit corporations or associations are readily available in an area to provide the service.
- c. Public bodies approved by the State to coordinate services for elderly individuals and individuals with disabilities.

Local public bodies eligible to apply for Section 5310 funds as coordinators of services for elderly persons and persons with disabilities are those designated by the State to coordinate human service activities in a particular area. Examples of such eligible public bodies are a county agency on aging or a public transit provider which that State has identified as the lead agency to coordinate transportation services funded by multiple Federal or State human service programs.

ELIGIBLE CAPITAL EXPENSES. Funds for the Section 5310 program are available for capital expenses as defined in Section 5302(a)(1) to support the provision of transportation services to meet the special needs of elderly persons and persons with disabilities. Examples of capital expenses include, but are not limited to:

- a. buses;
- b. vans;
- c. radios and communication equipment;
- d. vehicle shelters;
- e. wheelchair lifts and restraints;
- f. vehicle rehabilitation; manufacture, or overhaul;
- g. preventive maintenance, as defined in the National Transit Database;
- h. extended warranties which do not exceed the industry standard;
- i. computer hardware and software;
- j. initial component installation costs;
- k. vehicle procurement, testing, inspection and acceptance costs;
- l. lease of equipment when lease is more cost effective than purchase. Note that when lease of equipment or facilities is treated as a capital expense, the State must establish criteria for determining cost effectiveness in accordance with FTA regulations, "Capital Leases," 49 CFR Part 639 and OMB Circular A-94, which provides the necessary discount factors and formulas for applying the same;
- m. acquisition of transportation services under a contract, lease, or other arrangement. Both capital and operating costs associated with contracted service are eligible capital expenses. User-side subsidies are considered one form of eligible arrangement. The State, as recipient, has the option to decide whether to provide funding for such acquired services. Funds may be requested for contracted services covering a time period of more than one year. The capital eligibility of acquisition of services as authorized in 49 U.S.C. 5310(a)(3) is limited to the Section 5310 program;
- n. the introduction of new technology, through innovative and improved products, into mass transportation;
- o. transit related intelligent transportation systems; and
- p. supporting new mobility management and coordination programs among public transportation providers and other human service agencies providing transportation. Mobility management techniques may enhance transportation access for populations beyond those served by one agency or organization within a community. For example, a non-profit agency could receive Section 5310 funding to share services it provides to its own clientele with other individuals with disabilities or elderly individuals and coordinate usage of vehicles with other non-profits. Mobility management is intended to build coordination among existing public transportation providers and other transportation service providers with the result of expanding the availability of service. Mobility management activities may include:
 - i. The promotion, enhancement, and facilitation of access to transportation services, including the integration and coordination of services for individuals with disabilities, older adults, and low income

- individuals;
- ii. Support for short term management activities to plan and implement coordinated services;
 - iii. The support of State and local coordination policy bodies and councils;
 - iv. The operation of transportation brokerages to coordinate providers, funding agencies and customers;
 - v. The provision of coordination services, including employer-oriented Transportation Management Organizations' and Human Service Organizations' customer-oriented travel navigator systems and neighborhood travel coordination activities such as coordinating individualized travel training and trip planning activities for customers;
 - vi. The development and operation of one-stop transportation traveler call centers to coordinate transportation information on all travel modes and to manage eligibility requirements and arrangements for customers among supporting programs; and
 - vii. Operational planning for the acquisition of intelligent transportation technologies to help plan and operate coordinated systems inclusive of Geographic Information Systems (GIS) mapping, Global Positioning System technology, coordinated vehicle scheduling, dispatching and monitoring technologies as well as technologies to track costs and billing in a coordinated system and single smart customer payment systems (acquisition of technology is also eligible as a stand alone capital expense).

FEDERAL/LOCAL MATCHING REQUIREMENTS.

- q. General. The Federal share of eligible capital costs may not exceed 80% of the net cost of the activity. The 10% that is eligible to fund program administrative costs including administration, planning, and technical assistance may be funded at 100% Federal share. The local share of eligible capital costs shall be no less than 20% of the net cost of the activity. The local share may be provided from an undistributed cash surplus, a replacement or depreciation cash fund or reserve, a service agreement with a State or local service agency or private social service organization, or new capital. Some examples of these sources of local match include: State or local appropriations; dedicated tax revenues; private donations; revenue from service contracts; toll revenue credits; and net income generated from advertising and concessions. Non-cash share such as donations, volunteered services, or in-kind contributions is eligible to be counted toward the local match as long as the value of each is documented and supported, and represents a capital cost which would otherwise be eligible under the program. In addition, the local share may be derived from Federal programs that are eligible to be expended for transportation, other than the Department of Transportation (DOT) programs, or from DOT's Federal lands highway program.

PLANNING REQUIREMENTS. To be eligible for funding, Section 5310 projects in urbanized areas must be included in the Metropolitan Transportation Plan prepared and adopted by the Metropolitan Planning Organization (MPO), the Transportation Improvement Program (TIP) approved jointly by the MPO and the chief executive officer of a State, and the Statewide Transportation Improvement Program (STIP) approved by the chief executive officer of a State and jointly approved by FTA and FHWA. Projects outside urbanized areas must be included in, or be consistent with the Statewide Long-Range Transportation Plan, as approved by the chief executive officer of a State, and the STIP. With limited exceptions, all federally-funded highway or transit projects must be included in the applicable plan and program documents. For purposes of convenience, the State may group its planned expenditures of Section 5310 funds into statewide or metropolitan area-wide projects, such as vehicle acquisitions or services contracted for rural and urban recipients, and administration costs. All projects must adhere to the requirements of 49 U.S.C. 5303 and 5304.

Submitted by,


Tom Osborn

Montana Transportation Chair